# *Universities Academic Pension Plan Board*

*1990*

*ANNUAL*

*REPORT*

Alberta
GOVERNMENT PENSION BOARDS

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June 1991

The Honourable Dick Johnston
Provincial Treasurer

Sir:

I have the honour to submit to you the annual report of the Universities Academic Pension Plan Board for the period January 1, 1990 to December 31, 1990. The report outlines the roles and responsibilities of the Universities Academic Pension Plan Board under the legislation governing the plan.

Board activities, during the period under review, with respect to its appellate and advisory roles are described in the report.

Yours truly,

J. E. Faries, FCIS, PAdm.
Chairman

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## INTRODUCTION

The calendar year 1990 is the fifth full year of operation of the Universities Academic Pension Plan Board. This Board was established November 1, 1985 under the Universities Academic Pension Plan Act. At March 31, 1991 there were 4,611 active participants and 998 pensions in payment.

The Board's main responsibilities are:

- to hear appeals of administrative decisions on pensions made by the Minister,
- to extend time limits under section 10 of the Act and under reciprocal agreements, and
- to advise the Minister responsible for public service pensions on matters relating to the Plan.

The Honourable Dick Johnston, Provincial Treasurer, is the Minister responsible for public service pensions. The Plan is administered by Alberta Treasury, Payroll and Pensions Division.

The Board is made up of ten members appointed by the Lieutenant Governor in Council on the recommendation of their constituencies representing employees, employers and the Government.

The roles of the Board are split between quasi-judicial and advisory. The quasi-judicial role of the Board is summarized in the section Summary of Appeals. A sample of appeal cases is provided for information. The advisory role is discussed in the section Advice.

## CHAIRMAN'S REPORT

In preparing my comments for the year 1990, I pause to reflect on the Alberta Pension System over the years. For many years Alberta's Public Service Pension System was one of the leaders in Canada. Many other provinces looked to the Alberta System for leadership. This was evident when Alberta took the lead role in forming the Association of Canadian Public Service Pension Advisors in 1973. The main issue of that day was the importance of permitting public service employees to move from one level of government to another. For the most part, the goal of the first annual conference has been met. More recently, general portability of pensions in the last few years has become one of the key issues in pension reform.

In addition, new issues have emerged. The financial risk of the existing system has grown to the point where it is questionable whether it can be managed on the strength of a government guarantee alone. In attempting to find new ways of managing this growing financial risk, we must consistently remind ourselves that pensions are no longer a reward for long and faithful service; it is now public policy that they be considered as deferred wages. A pension plan is a benefit offered to current employees to help them face old age knowing that they have a certain level of purchasing power. To ignore this would be "breaking faith" with public servants who over their careers have faithfully served the government and taxpayers. Any modification to the plan must be done in a way to preserve the integrity of the plan.

The pension system in general is in the midst of reform as sponsors and beneficiaries attempt to strike a balance between risk and promises. Various provincial jurisdictions have moved ahead with private and public sector reform - often the result of long processes of consultation and consensus building. The federal government is also showing an interest in pensions as witnessed by its "Tax Reform" package, which attempts to bring increased equity into the retirement system. Many of the recommendations summarized in this report attempt to respond to these issues within the context of the Universities Academic Pension Plan.

Change, however, is a difficult process to initiate and manage. There is risk involved in change, but there is greater risk involved in not changing when it is required. Much like a frog in water who fails to respond to the water being heated until it is too late, failure to respond to a changing environment can have catastrophic results.

Apart from making specific recommendations, the Board has focused on the need for change and the process of bringing about change. The annual seminar brought together Board members, employees, employers, retired public servants and government representatives to address a basic question:

"How well do the current structures which deliver public sector pensions in Alberta serve its public servants and taxpayers, and is there a better way?"

The discussion was led by a panel which included Mr. Keith Ambachtsheer, a highly respected consultant in the industry, Mr. Al Reeve, the Executive Director of the Ontario Municipal Employees Retirement System (OMERS) and Mr. Al O'Brien, the Deputy Provincial Treasurer of Alberta. The perspectives presented by the speakers and participants created a greater sense of awareness among the various stakeholders. A consensus emerged that now is the time for change in a managed fashion.

Changes experienced in other jurisdictions have made available a wide choice of alternatives. Public sector pension systems now vary substantially across the country as each province developed different models. Weighing the pros and cons of each and deciding which model should be used requires a formal process. That process should be based firmly on consultation.

The Minister has indicated that changes to "funding, benefits and administrative provisions" in addition to changes required to comply with federal tax reform are being contemplated.

If adjustments are to be made to the plan, it is important that adequate time be committed for consultation with all parties involved. Changes must insure that the plan is viable and meets the needs of all beneficiaries for years to come. A clear plan must be established to deal with the accrued liabilities of the plan, funding of current service and benefits for members. The incidence of risk must be examined and all beneficiaries given adequate tools to manage the risk they are asked to bear. If these steps are not taken, then the value of the plan may be lost to those beneficiaries who need it the most.

## THE BOARD

The Universities Academic Pension Plan Board consists of four representatives of the academic staff associations, four employer representatives, one member representing the government's interest and the Chairman.

Brief biographies of the nine Board members as at December 31, 1990 are provided below.

With the exception of the Chairman and Vice-Chairman, Board members serve on a part-time non-remunerative basis. The Chairman also serves as Chairman of the Boards of four other government administered pension plans. A small staff provides professional and administrative services to the five Boards.

To assist the Board in its advisory role, employees, employers and interested groups are encouraged to express their views and concerns on policy issues to the Chairman or their representative Board members.

The Board met five times in the period under review. Board minutes are recorded but are not made public.

### Members

#### J. E. Faries

Mr. Jerry Faries is Chairman of the Board and has considerable background in pension policy and administration. He served over 15 years as Director of the Pension Administration. Mr. Faries was Chairman and instructor for the Employee Benefit Administration Certificate program of the University of Alberta for a number of years. Currently he holds several senior positions on other boards and community organizations. His term of office expires on April 1, 1992.

#### A. F. (Chip) Collins

Mr. Collins, the government representative, is Vice-Chairman of the Board. He served as Deputy Provincial Treasurer from 1972 until his retirement in 1984. Mr. Collins brings to the Board extensive financial, administrative, and public service experience. Mr. Collins was appointed Vice Chairman on January 23, 1985 and his term of office expired on April 1, 1991.

**R. D. Bercov**

Dr. Ronald Bercov was appointed to the Board on August 21, 1987 to represent the Association of Academic Staff of the University of Alberta. Dr. Bercov was Associate Vice-President (Academic) for 1980 - 85 and Acting Dean of Science at the University of Alberta for the 1986-87 year. He is currently Professor of Mathematics. His term of office expired on April 1, 1991.

**E. E. Falkenberg**

Dr. Eugene Falkenberg was appointed to the Board August 1, 1987 and represents the Faculty Members Association of the University of Lethbridge. Educated in Canada and the United States, he received his Bachelor of Education at the University of Alberta, his Masters of Science at the University of Oregon and his Doctor of Education at the University of Montana. He is presently Professor of Education at the University of Lethbridge. His term of office expired on April 1, 1991.

**D. R. Franklin**

Mr. Ronald Franklin was appointed to the Board on December 19, 1984 to represent the Board of Governors, University of Calgary. He has experience in private industry prior to joining the University of Calgary in 1964 to direct human resources. He has acted as consultant and management nominee on numerous arbitration boards in the public and private sectors. He is actively involved in community events. His term of office expired on April 1, 1991.

**M. G. Hamilton**

Dr. Mary Hamilton was appointed to the Board on April 5, 1990 to represent the Faculty Associations of Athabasca University and The Banff Centre for Continuing Education. Dr. Hamilton holds a Masters degree (English) from the University of Windsor and a Ph.D. (Comparative Literature) from the University of Alberta. Her teaching career included working as an English Instructor at the Adult Education Centre of Canada Manpower and various teaching positions in her field with the Universite de Sherbrooke and Athabasca University. She is currently an Associate Professor, English and Humanities at Athabasca University. Her term of office expires on April 1, 1992.

**E. A. Hillman**

Mr. Eric Hillman was appointed to the Board in October 1987 to represent the Board of Governors, University of Lethbridge. He assumed the position of Vice-President, Administration in August 1987 and has held a number of senior posts at the University of Manitoba and University of Calgary prior to coming to Lethbridge. His term of office expires on April 1, 1992.

**T. M. Horbulyk**

Dr. Ted Horbulyk was appointed to the Board on April 5, 1990 to represent The University of Calgary Faculty Staff Association. Dr. Horbulyk holds a bachelor's degree in Agricultural Sciences from the University of British Columbia, and he is a Professional Agrologist (Province of Alberta). He earned M.A. and Ph.D. degrees in Economics from Queen's University, Kingston, where he also held the position of Adjunct Instructor in the Department of Economics. His professional experience in Economics includes private-sector service as a consultant, and several public-sector positions with the Government of British Columbia. Currently, Dr. Horbulyk is an Assistant Professor of Economics, The University of Calgary. His term of office expires on April 1, 1992.

**B. H. McDonald**

Mr. Brian McDonald was appointed to the Board on August 29. 1984 to represent the Board of Governors, University of Alberta. He is presently Associate Vice-President, Academic Administration at the University, a position held since 1978. Prior to joining the University staff he was employed in the oil industry in Calgary. He holds a Bachelor of Commerce degree from the University of Saskatchewan and an MBA from the University of California. His term of office expires on April 1, 1992.

**N. Meier**

Mr. Norbert Meier was appointed to the Board on April 5, 1990 to represent the Governing Councils of The Banff Centre for Continuing Education and Athabasca University. Educated in the United States, Mr. Meier specialized in Organizational Behaviour. He managed the Management Studies Programs for The Banff Centre's School of Management. Since 1980, he has held his current position of Director, Personnel Services at The Banff Centre. His term of office expires on April 1, 1992.

## SUMMARY OF APPEALS

### Provisions

The Act provides that decisions of the Minister, which negatively affect plan members' rights under the Pension Plan in any of the following areas, can be appealed:

| | |
|---|---|
| Participation | Contributions |
| Pensionable Service | Prior Service |
| Benefits | |

The Act also provides for application to the Board for extension of time limits in respect of pension benefits and benefit choices. Under the terms of the various reciprocal transfer agreements, the Board is empowered to extend time limits on breaks in service and on applications at its discretion.

The provisions dealing with applications under section 10 and appeals under section 34 are outlined for easy reference in Appendix A - excerpts from the Act.

Parties aggrieved by a decision of the Board under section 34 of the Act may appeal to the Court of Queen's Bench within 30 days on a question of law or jurisdiction.

### Procedure

A Notice of Appeal form, prescribed by the Minister, is normally provided to the plan member by Payroll and Pensions Division of Alberta Treasury with any adverse administrative decision. This form must be completed and submitted in filing an appeal with the Board. It may also be used for applications for time limit extensions.

Assistance to appellants is available from the Chairman's office. The individual may seek advice on what facts to gather and how these should be presented.

Though hearings are conducted in an informal manner, the Board is guided by the pension legislation and adheres to the principles of natural justice and fairness. The Board has published a Pension Appeal Process brochure which provides guidelines for members of the Alberta Pension Plans.

The Board has authorized the Chairman to reimburse appellants and applicants appearing before the Board for reasonable travel and out-of-pocket expenses. This ensures that all appellants and applicants have the opportunity to appear and present their cases irrespective of their places of residence.

**Summary of Appeals and Applications (1990)**

During 1990 the UAPP Board decided on 9 appeals and applications, compared to 10 dealt with in the previous year. The Board granted or varied 78% and 90% of the cases in 1990 and 1989 respectively.

In 1990, 78% of the appellants and applicants or their representatives attended their hearings before the Board. This compares to 60% in 1989.

Summary of Appeals and Applications for 1990, by categories, with comparative figures for 1989 - UAPP Board

| | 1990 | | | 1989 | | |
|---|---|---|---|---|---|---|
| Category | # | % of Total | % Granted or Varied | # | % of Total | % Granted or Varied |
| Reciprocal Transfer | 2 | 22% | 100% | 1 | 10% | 100% |
| Time Limit Extensions (Section 10) | 2 | 22% | 50% | 5 | 50% | 80% |
| Appeals (Section 35) | 5 | 56% | 80% | 4 | 40% | 100% |
| **TOTAL** | 9 | 100% | 78% | 10 | 100% | 90% |

One appeal was filed but did not require a hearing by the Board - the appeal provision was relied upon to facilitate a resolution and the case was granted by Payroll and Pensions Division (P & P).

The following is intended to provide a cross-section of appeals and applications and is not an exhaustive description of cases heard by the Board.

**Appeal #1 - Non-standard Pension Option**

In November 1989 the appellant applied for retirement under the Universities Academic Pension Plan (UAPP) and requested a non-standard pension option: joint life pension with a guaranteed term of 15 years. The appellant wanted to provide for two dependents in case of a common disaster involving himself and his spouse. He advised that the university's predecessor pension programmes offered options like

these. He also argued that since the guaranteed term is provided for members choosing single life options, the same should be allowed for married members. Thirdly, there was very little difference in the pension amounts between the guaranteed term and a non-guaranteed term.

In the Minister's view, the current pension options offered to retirees were adequate to cover most situations. It was pointed out that too many options tended to confuse the retirees. A precedent case was mentioned in which a joint life option with a guaranteed term was allowed to provide for a disabled child. The situation in this case was different. In respect of the Board's authority, it was argued that the Minister has the discretion in the Act to grant the appeal but the Board does not have jurisdiction to do the same.

The Board vacated the Minister's decision and allowed the appellant to choose a joint life pension guaranteed for 15 years. The decision was based on the reason that section 19 of the Act allows for an alternative pension choice and that the option requested by the appellant was one best suited to his circumstances.

**Appeal #2 - Application for Extension of Time Limit for Reciprocal Transfer**

The applicant was offered a tenured position by a participating employer under the UAPP. However, the applicant's husband, who was also an academic, had difficulty in obtaining suitable employment at the time. In order to secure the applicant's service, the current employer made arrangements for the applicant to join the institution as a visiting professor for the year while she took a leave of absence without pay from her previous employer. She arranged to pay for her employee benefits retroactively with her previous employer who neglected to advise her about the three-month time limit under the transfer agreement. During the school year, the applicant's husband found employment which prompted her to accept a permanent position under the importing plan in the Spring of 1989. The applicant thought that she could purchase her leave under the exporting plan at the end of it. The applicant applied in April 1990 to purchase her service as a visiting professor under the UAPP. The arguments for allowing the transfer were: that the applicant was unaware of the time limit which was part of the terms of the agreement but not part of the public statute; that she was put in this situation because of the recruitment process and that the oversight was not hers.

Payroll and Pensions' (P & P) Division denied the application because the time limit in the agreement was not met. It was P & P's administrative policy not to extend time limits in order to restrict the transfer of significant liabilities to the pension plan.

The Board granted the application on the bases that the applicant moved immediately from the exporting plan to the importing plan, she was unaware of the time limit and she was purchasing her prior service, while a visiting professor, with the importing employer.

**Appeal #3 - Suspension of Pension During Re-employment**

Appellant retired and started to receive a pension under the UAPP in September 1987. Due to some drastic changes to her domestic and financial situation, the appellant returned to work as a clerk steno (non-academic) with her former employing institution. Since the position was paid out of a trust fund, she did not think her UAPP pension would be affected. Her employer was aware of her pension situation when she was offered the position.

The Minister requested an overpayment of pension of approximately $7,000 for the period December 1988 to September 1989. The argument put forth was that section 18(1) of the principal regulation stipulated that the pension be suspended if the appellant had become engaged to work for an employer for more than half time while receiving her pension. The Minister considered the appellant to be an employee of the university regardless of how the position was funded.

The Board determined that section 18(2) and (3) did not apply to this appeal and that "employer" referred to in section 18(1) meant an employer under the UAPP Act. The institution in this case was viewed as two different employers for the purpose of the UAPP Act and the Public Service Pension Plan Act. Therefore, the Board vacated the Minister's decision and permitted the appellant to receive both pension and salary for the period in question.

**Appeal #4 - Purchase of Leaves of Absence**

The appellant applied to purchase four periods of prior service, two of which were leaves without pay taken in 1971/72 and 1974/75. The Minister rejected the application to purchase the leaves on the basis that the application was not made within one year of the end of the leaves. Later, the Minister advanced a different reason for the denial, indicating that "educational leaves" were ineligible under the Act. The appellant argued that the leaves were taken for research and teaching purposes rather than for education. He was awarded a fellowship for 1971/72 and conducted research at a university in West Germany. For 1974/75 he was on another fellowship in Denmark where he conducted research, taught at the university and completed a book. He was not enroled in any course and did not pursue any study during the periods in question.

The Minister referred to a Board resolution passed in 1979 governing leave of absence. It was pointed out that the leaves were not taken for purposes stipulated in the regulation. Although the current legislation and regulation would permit the purchase of such leave, they were not intended to be retroactive. Therefore, the appellant's application was not denied because of a time limit issue. The Minister did not comment on the latest information about the appellant's activities during the leaves.

The Board reviewed the relevant section of the Universities Academic Pension (UAP) Act (legislation in effect at the time the leaves were taken) and determined that service "in the field of teaching or research at any college or university" was eligible for recognition under the plan. Since the appellant conducted research and taught at a university during the periods under review, the leaves were considered eligible under section 1(1) of the UAP Act. The Board therefore granted the appeal.

## ADVICE

The Board is empowered to "advise the Minister respecting any matters relating to the plan" (Section 9 of the Act). These include adequacy of contributions, benefits, actuarial assumptions, rates of interest etc. In total, this covers virtually all aspects of plan administration and fund management. In reviewing the advice offered by the Board, it is appropriate to measure it against some standard or test. The standard used to evaluate the management of a pension plan is the fiduciary standard. It can be argued that the Minister, as the administrator of the plan, is a fiduciary. It can also be argued that the Board through its statutory responsibility to advise the Minister should be judged on the same basis.

A fiduciary is someone who has acquired a position of trust on the condition that he will use act in the best interests of another. For a pension plan, the duty of the fiduciary is to act in the best interests of the plan beneficiaries. In the case of the UAPP, the beneficiaries could be argued to include:

(1) The plan member as someone who contributes and expects to receive a benefit from the plan.

(2) The spouse, dependant or estate of the plan member, to the extent they are entitled to a benefit, contingent or vested, under the plan.

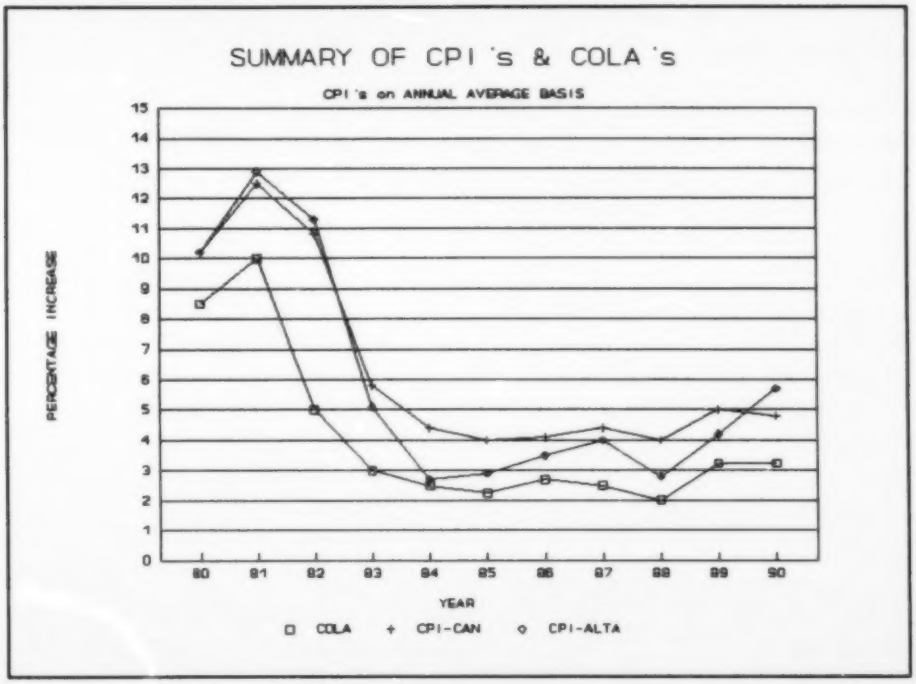
(3) The employer under the plan to the extent that employers contribute to the plan and rely on the plan to provide a pension benefit to their employees.

(4) The taxpayer, through his agent the provincial government, by virtue of the guarantee affixed to the benefit and therefore potential responsibility for any unfunded liability of the plan.

In evaluating the Board's advisory record on the basis of a fiduciary, one can look both at its specific recommendations and its leadership in a broader consultative role. The Board's recommendations can be found in a number of letters and reports to the Minister and over the past year included:

(1) Before changes are made to the UAPP Act due to federal tax reform, discussions take place regarding the provisions that would be affected. Currently, the Plan contains provisions that would put it "off-side" relative to the new registration rules. Any discussion would ensure that any modifications would reflect the concerns of all beneficiaries.

(2) A cost of living adjustment (COLA) formula based on 75% of the Alberta Consumer Price Index be encoded in legislation. The actual COLA granted has fallen short of that target level throughout most of the last 10 years.




The graph above shows the COLA's granted on January 1 following the years 1980 through 1990, i.e. the COLA of 3.25% shown for 1990 was granted on January 1, 1991. The Consumer Price Index (CPI) increases are for the calendar years, i.e. CPI-CAN shown for 1990 is the 4.8% increase in the 1990 average CPI over the 1989 average CPI. During the 11-year period the average annual increases were as follows: Canada CPI - 6.3%, Alberta CPI - 5.9%, COLA's granted - 4.1%. Similarly, during the 5-year period 1986 through 1990 the average annual increases were as follows: Canada CPI - 4.5%, Alberta CPI - 4.0%, COLA's granted - 2.7%.

Encoding would not increase the current service cost of the plan since it is already included in the actuarial valuation. It would, however, strengthen the security of the benefit which participants now expect.

Over the years, the Board's recommendations have advocated greater accountability, more adequate funding, minimization of opportunities for selection against the fund, and recognition and management of the risks faced by all "beneficiaries."

In addition to this direct advice, the Board also engages in a broader consultative role. The Annual Seminar provides an opportunity for stakeholders in the various public sector "pension deals" to discuss issues in an open forum. This year's seminar focused on plan governance. As pre-work for the seminar, a discussion paper titled **"Plan Governance: A Framework For Discussion"** was circulated to all participants. Through a series of presentations by outside speakers, panel discussions and workshops, representatives of employees, employers, Treasury, and interested parties were able to speak directly on the issue of governance.

The proceedings of the seminar pointed to a consensus among the participants that governance was important and, given its linkages to all issues facing the plan, should be addressed. The executive summary, **"A Logical Next Step: Developing The Consultative Process,"** focused on what sort of process could be put in place to deal with the issue. Based on the consensus established at the seminar, a proposal was presented to the Minister early in 1991 that the governance and funding of the plan be reviewed. Such a review would allow for input from all "beneficiaries" and enable a consensus to be established regarding these two critical issues.

The Minister did respond and indicated that, in addition to tax reform, other changes related to "financing, benefit and administrative changes" were being considered. At the time of writing, details of the Minister's plan amendments and process for consultation were still forthcoming. It is expected that the proposed changes and anticipated consultations will guide Board activities in 1991.

## APPENDIX A

*Excerpts from the Act*

*The following excerpts of the Universities Academic Pension Plan Act define the make-up and responsibilities of the Universities Academic Pension Plan Board.*

***Establishment, composition, term of office, etc.***

*5(1) There is hereby established a board known as the Universities Academic Pension Plan Board.*

*(2) The Board shall consist of not fewer than 6 persons appointed members of the Board by the Lieutenant Governor in Council, being*

*(a) the chairman,*

*(b) an even number of not fewer than 4 and not more than 10 persons appointed in equal proportions from among persons nominated by*

*(i) the employers, and*

*(ii) the academic staff associations of the employers, and*

*(c) 1 or more other persons.*

*(3) A member of the Board holds office for the term fixed in relation to him by the Lieutenant Governor in Council.*

*(4) The Minister may prescribe the remuneration and expenses to be paid to members of the Board.*

*(5) The Board may make rules respecting the calling of and the conduct of business at its meetings.*

***Chairman and Vice-chairman***

*6(1) The Lieutenant Governor in Council shall designate one of the members of the Board to be the chairman and another member to be the vice-chairman of the Board.*

*(2) The vice-chairman shall act as chairman when the office of the chairman is vacant or when the chairman is absent or unable to act.*

***Support services***

7 *The Minister shall provide such supplies, services and accommodation as he considers necessary to enable the Board to fulfil its objects.*

***Objects of the Board***

8 *The objects of the Board are*

(a) *to conduct the hearing of appeals under Part 6;*

(b) *to provide advice to the Minister under section 9;*

(c) *where appropriate, to extend time limits and treat benefit choices as revoked under section 10;*

(d) *to exercise and perform any other powers and duties assigned to it by this Act and regulations;*

(e) *to perform any other duties relating to the Plan that are assigned to it by the Minister.*

***Advisory functions of the Board***

9 *The Board may advise the Minister respecting any matters relating to the Plan, including*

(a) *the adequacy of contributions to meet benefits,*

(b) *adjustments to pensions under section 26,*

(c) *rates of interest for the purposes of the Plan,*

(d) *benefits,*

(e) *reciprocal agreements,*

(f) *recognition of prior service,*

(g) *eligibility and participation in the Plan, and*

(h) *the actuarial tables prescribed or to be prescribed by the Minister.*

***Board's power to extend time limits, etc.***

*10(1) Where*

*(a) a person fails to meet a time limit under the Plan,*

*(b) the failure will or could result in a person's obtaining different benefits than those he would have obtained had the time limit been met, and*

*(c) the Board is satisfied that the failure results from circumstances that import no material fault on the part of that person,*

*the Board may, on application to it, extend the time limit.*

*(2) Where*

*(a) the circumstances set out in subsection (1)(a), (b) and (c) apply,*

*(b) the benefit has been received or has commenced to be paid, and*

*(c) the Board is satisfied that a choice, including a deemed choice, that would otherwise be irrevocable under section 39(2) could materially prejudice the best interests of the recipient or his dependants,*

*the Board may, on application to it, treat that choice as revoked, extend the time limit for making the choice and order any consequential adjustments in the benefits.*

*(3) Where*

*(a) a benefit choice has been made, and*

*(b) the Board is satisfied that*

*(i) the choice communicated to the Minister was not that which the person making the choice actually intended, and*

*(ii) the application mentioned in this section does not result from a change in a person's circumstances affecting the choice,*

*the Board may, on application made to it within 3 months from the date when the benefit was received or commenced to be paid, treat the choice as revoked, substitute for it the choice that, in the Board's opinion, the person originally intended to make and order any consequential adjustments in the benefits.*

***Appeal to the Board***

*34(1) A party aggrieved by a decision of the Minister under or in relation to Parts 2 to 5 or the prescribed provisions of the regulations, other than a decision under section 31 or one that could be the subject-matter of an application under section 10, may appeal against that decision to the Board.*

*(2) A party wishing to appeal to the Board under this section must serve the chairman of the Board with a notice of appeal in the form prescribed by the Minister within 30 days of being notified in writing of the decision appealed against or within such longer period as the Board may, on application, allow.*

*(3) The notice of appeal must specify the decision appealed against and the grounds of appeal.*

*(4) The Board may identify persons who may be interested in the appeal and may give directions as to the persons to be served with the notice of appeal, whether or not they are parties.*

*(5) For the purposes of conducting an appeal under this section, the Board*

*(a) has all of the duties, powers, privileges and immunities given to a commissioner appointed under the Public Inquiries Act by sections 3, 4, 7 and 9 of that Act, and*

*(b) shall be deemed to be a person for the purposes of section 1(a) of the Administrative Procedures Act.*

*(6) The Board may confirm, vacate or vary the decision appealed against.*

*(7) The Board shall serve the appellant and persons who received a notice of appeal with a copy of its decision, including the reasons for the decision.*

***Appeal to the Court of Queen's Bench***

*35(1) A party aggrieved by a decision of the Board under section 34 may, within 30 days of the date of service of the Board's decision on him or such longer period as the Court may allow, appeal to the Court of Queen's Bench on a question of law or jurisdiction.*

*(2) The procedure in an appeal to the Court of Queen's Bench shall be the same as that provided in the Alberta Rules of Court for applications by originating notice.*

*(3) The Court of Queen's Bench, on hearing the appeal, may confirm, vacate or vary the decision of the Board or make any order it considers just.*

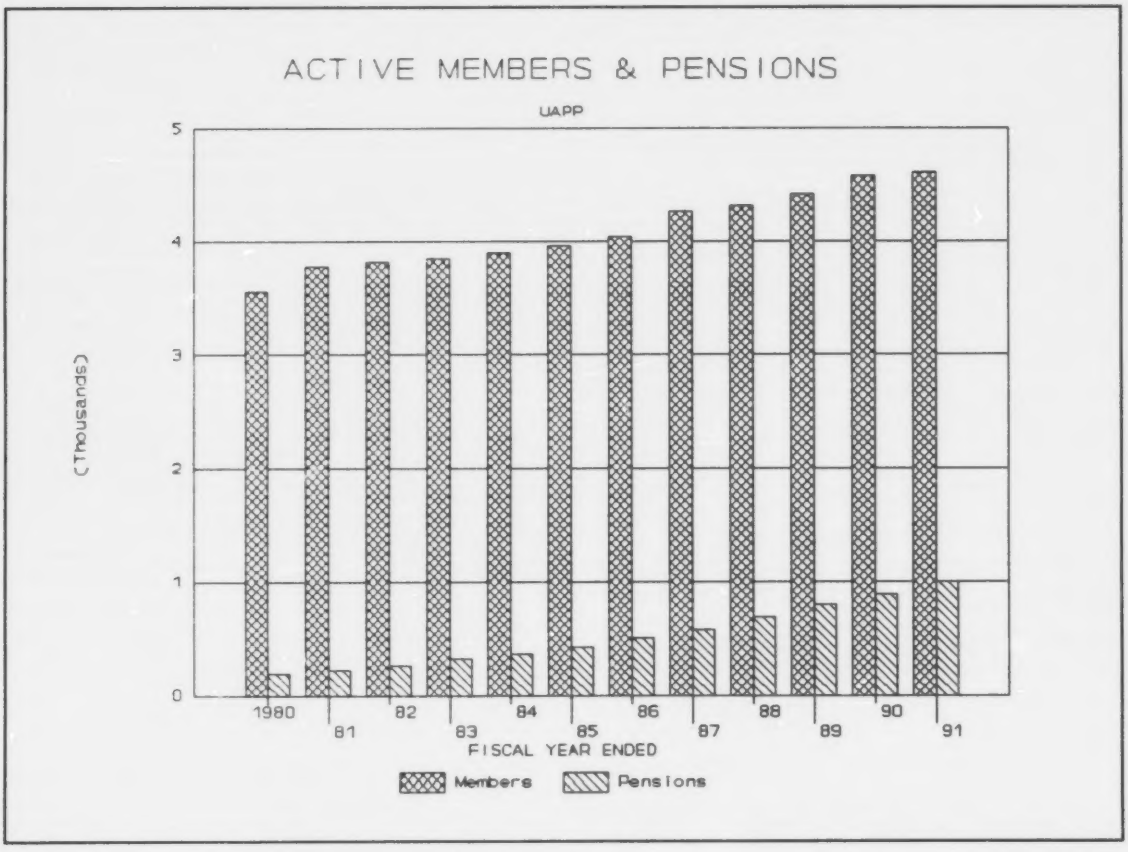
## APPENDIX B

### Summary of Plan Statistics

Statistics are provided by Payroll and Pensions Division of Alberta Treasury and interpreted by the Alberta Government Pension Boards office.

A. Active Members

Active membership in the Universities Academic Pension Plan increased from 3,560 at March 31, 1980 to 4,611 as at March 31, 1991. The following graph shows the relative changes from 1980 through 1991:

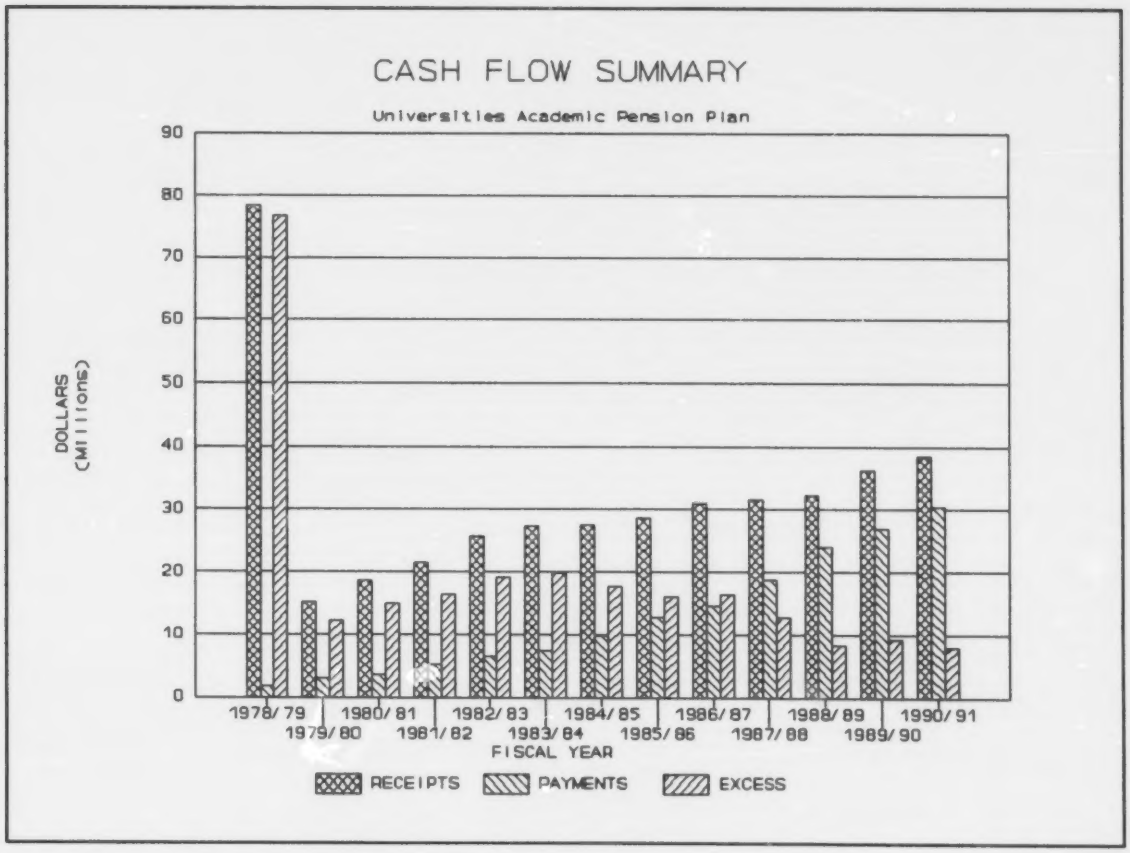


B. Pensions in Payment

Pensions in payment increased from 192 at March 31, 1980 to 998 as at March 31, 1991. The previous graph shows the relative increases. The average pension in payment was $956 per month on March 31, 1981 and increased to $2,339 per month for pensioners and $1,528 per month for surviving spouses on March 31, 1991.

C. Cash Flow Summary

The graph below reveals that receipts were $15,122,621 in fiscal year 1979/80 and increased to $38,431,000 in fiscal year 1990/91. Payments increased from $3,057,761 in fiscal year 1979/80 to $30,521,000 in fiscal year 1990/91. The excess contributions were $12,064,860 in fiscal year 1979/80 and $7,910,000 in fiscal year 1989/90. [Figures for fiscal year 1978/79 include a transfer of funds from the predecessor plan].



## APPENDIX C

**Summary of the Annual Seminar**

The Annual Seminar, an event hosted by the Alberta Government Pension Boards Office on behalf of all Government Pension Boards, was expanded this year and proved to be very successful. The Seminar focused on a single issue, plan governance. A pre-work discussion paper on plan governance was distributed before the seminar. This put the questions related to plan governance on the table before the seminar began and gave participants an opportunity to develop their thinking before hand. Three panellists were charged with responding to the questions raised by the pre-work.

The question of governance was initially explored by Mr. Keith Ambachtsheer, of Keith P. Ambachtsheer & Associates Inc., a highly respected consultant who was a principal advisor to the influential Ontario Task Force of the Investment of Public Sector Pension Funds. He brought a challenge to the group to look at the issues facing them with an open mind. He encouraged the interaction of all parties involved in pensions with each other to bring about an acceptable and stable system. Mr. Ambachtsheer left two questions with the group.

1. "Should Alberta institute a formal process to decide how to best deliver public service pensions in the 1990's and beyond, keeping in mind the interests of both Alberta public servants and taxpayers?

2. What kind of process is most likely to answer question 1?"

From the practical point of view of governance, Mr. A. W. Reeve, Executive Director of OMERS, presented the experience of a self-administered public sector plan. He pointed out that OMERS was an administrative board with a professional staff which is responsible for the total operation of the plan, from everyday administration to investments and investment policy. OMERS has grown from a 1 billion dollar fund in 1963 to an 13 billion dollar fund in the 1990's.

Mr. A. D. O'Brien, Deputy Provincial Treasurer, addressed the seminar on the fiscal framework of governance from the perspective of the Alberta Government. After reviewing the history of the system in Alberta he stated that the Government was very concerned about the growing liabilities and demands made for increased benefits. He concluded that "decision making power should be apportioned according to who bears the financial risk." He stated that "The Government is not willing to expose itself to increased risk without mechanisms to ensure that experience shortfalls and benefit improvements are covered."

In addition to the panel, there were presentations on the administration of the plan, investment management of the pension fund and the advisory/quasi-judicial roles of the Boards. Of particular interest was the discussion by Professor John M. Law of the University of Alberta on the quasi-judicial and fiduciary responsibilities assigned to the Pension Boards. He concluded that even if the Boards are not considered fiduciaries, they must exercise a fiduciary standard when providing advice to the Minister on matters relating to the plan. They must make their recommendations taking into consideration the continuing life of the plan, the beneficiaries of the plan and the taxpayers. With regards to the Boards' quasi-judicial role, Professor Law noted that the Courts were willing to acknowledge the Boards' expertise in dealing with pension disputes. Citing from recent court decisions, he stated that the Courts have concluded that a court "should not interfere with an interpretation made by bodies having the expertise...in an area within their jurisdiction unless the interpretation is not reasonable or is clearly wrong." [Alberta Court of Queen's Bench, November 6, 1990, The Queen v. Palsat and the Public Service Management Pension Plan Board, Unreported].

Workshops were used to facilitate discussion among participants. Each group was asked to comment on the issues raised by the speakers and respond with its view of what should be the next step. It was from this feedback that the proposal, noted in the section Advice, was drafted for a process for consultation and was forwarded to the Minister. It was the view of seminar participants that issues such as funding could not be dealt with in isolation of governance. Further, the issues of funding and governance should be dealt with. Finally, a process of consultation should be put in place to address the issues.